

1 the Reading Eagle, it's like I'm talking about something in
2 Nome, Alaska. This was amazing, Your Honor.

3 THE COURT: But I'm trying to get this in sequence
4 and you're giving it to me all around the corner.

5 THE WITNESS: Okay, I can't tell you when we
6 reached --

7 THE COURT: But what sequence of events? You're
8 getting tapes, you're talking to the young man, you've
9 talked with Mr. Haag, you've talked with Mr. Umans. Had you
10 already made your decision at that point to go forward with
11 this challenge? Had you made it before you started seeing
12 the tapes? Did you make it after you'd seen the tapes?

13 THE WITNESS: I wish I could give you a definitive
14 answer. My guess is because we're careful people, we didn't
15 do it until after, but I just don't remember the time.

16 THE COURT: Okay, that's your answer.

17 THE WITNESS: We didn't spend a lot of money --

18 THE COURT: Okay.

19 Mr. Hutton, you may proceed. I'm finished with
20 that area myself. You can go ahead if you want to pick up
21 on it.

22 BY MR. HUTTON:

23 Q With respect to these college students, was this
24 taking place during the regular college year?

25 A I just don't remember. It was six or seven years

1 ago.

2 Q What college were they attending?

3 A University of Pennsylvania, I believe.

4 Q Given that the application was filed on June 30,
5 1994, you have no recollection as to when the taping
6 occurred?

7 A I looked at it last night, the dates, and -- the
8 last tape, I believe, was on June 30th. I'm not even sure
9 of that. It was in -- I just couldn't tell you for
10 certainty. I looked at them, I just didn't focus on them
11 other than the number of days and so on. I believe they
12 were in June but I can't tell you that. I wouldn't swear
13 that that was the date.

14 Q Were the tapes marked, the cassettes marked to
15 indicate the dates of the programming?

16 A Yes. They indicate the hours which are on the
17 tape, sequentially.

18 THE COURT: It's 25 of 4:00. I'm going to take a
19 15 minute recess. WE'll come at about ten to 4:00. The
20 witness has been on the stand for quite some time.

21 Off the record.

22 (Whereupon, a recess was taken from 3:35 p.m.
23 until 3:55 p.m.)

24 THE COURT: Back on the record.

25 Are you ready to proceed, Mr. Hutton?

1 MR. HUTTON: Yes.

2 THE COURT: I'm going to ask you to please be as
3 deliberate as you can with your questions and ask questions
4 one after the other. I don't want the stopping and starting
5 at this hour of the afternoon, okay?

6 MR. HUTTON: Okay.

7 THE COURT: All right.

8 BY MR. HUTTON:

9 Q Mr. Gilbert, how much time, strike that.

10 Had, at the time the taping was going on had Adams
11 Communications received an agreement to use its proposed
12 transmitter site?

13 A I can't tell you for certain, but I would think
14 yes. I'm not sure.

15 Q At that time had Adams received a bank letter from
16 its bank for the financing referenced in the application?

17 A Yes. I think so.

18 Q At the time the taping was going on had Adams
19 engaged the consulting engineers to prepare the engineering
20 portion of the application?

21 A Probably, yes.

22 Q I want to shift to the period of time after the
23 application was filed. Have you or any other representative
24 of Adams participated in seeking an appraisal of WTVE at any
25 time for purposes of a potential settlement of this case?

1 A No.

2 Q Has any representative of Adams discussed doing so
3 with any party?

4 A Yes.

5 Q Who did so?

6 A I did.

7 Q And what was the nature of that discussion?

8 A Michael Parker called me, offered us some money, I
9 talked to him for less than three minutes, and that was the
10 end of it.

11 Q I'm sorry, was there a discussion about doing an
12 appraisal of the station in that conversation?

13 A No.

14 THE COURT: Maybe you can ask him what did he say
15 to Michael Parker.

16 MR. HUTTON: Thank you, Your Honor.

17 BY MR. HUTTON:

18 Q What did you tell Mr. Parker?

19 A I wasn't interested.

20 Q Did you explain why not?

21 A No.

22 Q To your best recollection, what were the words you
23 used?

24 A I didn't want to deal with Michael Parker. I was
25 as abrupt as I could be without being discourteous.

1 Q Could you answer the question?

2 A That's the best answer I can give you.

3 THE COURT: Try and recall what it is you said to
4 the best of your recollection.

5 THE WITNESS: I said I'm not interested in talking
6 to you about it.

7 BY MR. HUTTON:

8 Q About settlement?

9 A That's all we were talking about. It was a very
10 brief conversation.

11 Q All right, let me get back to the question I was
12 on. Has any representative of Adams discussed doing an
13 appraisal of WTVE with any party?

14 A Yes.

15 Q And who was that representative?

16 A It was some woman about a year or a year and a
17 half ago who said that would we be willing to split three
18 ways the cost of doing an appraisal. She represented
19 Telemundo, whatever it was. I figured if it took \$3,000 to
20 find out what the station was allegedly worth, would be a
21 cheap way to find out. We had no idea what the station was
22 worth.

23 Q Why did you want to know what the station was
24 worth?

25 A Curiosity. For \$3,000 it was worth it to find

1 out.

2 Q And did you pay the \$3,000?

3 A Yes. \$3300 I think it was.

4 Q Did you receive an appraisal?

5 A Yes, I think so.

6 Q And who were the three parties who were going to
7 pay for the appraisal?

8 A Parker, ourselves, and I think it was Telemundo.
9 I'm not sure.

10 Q Was the woman who raised this idea a
11 representative of Telemundo?

12 A She alleged she was.

13 Q Do you know who this was?

14 A I don't remember her name. She's a lawyer in
15 Washington, I'm pretty sure.

16 THE COURT: I'm sorry to interrupt. I just want
17 to be sure I'm following this.

18 You said the three persons who requested the
19 appraisal were Parker, your group and Telemundo?

20 THE WITNESS: We didn't request it, we were
21 offered a chance to participate going three ways to get an
22 appraisal. For a cost of \$3300, I mean appraisals cost a
23 lot of money.

24 THE COURT: Right. Bear with me, Mr. Gilbert.

25 The three persons, the three entities that were

1 paying for the appraisal were Parker, Mike Parker.

2 THE WITNESS: Correct.

3 THE COURT: Your Adams Group.

4 THE WITNESS: Yes.

5 THE COURT: And Telemundo.

6 THE WITNESS: I think it was Telemundo. I'm not
7 positive about that.

8 THE COURT: And approximately what was the date
9 that you got the appraisal?

10 THE WITNESS: It was in the last 16-18 months.

11 THE COURT: The last 16 or 18 months?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: So it was about a year and a half ago?

14 THE WITNESS: Within, it could have been eight
15 months ago, I just don't remember. It was in that period.
16 It was not -- It was prior to November of last year, and I
17 just don't remember where -- I'll tell you, I'm not good at
18 exactly when it was.

19 THE COURT: Do you know?

20 MR. HUTTON: No, I don't.

21 THE COURT: All right. I'll take it as like six
22 to 18 months.

23 MR. COLE: I don't want to testify, but I have
24 some information about that if it would be helpful.

25 THE COURT: Would you offer that?

1 MR. COLE: Sure. My recollection is that the
2 contact came to us from Ann Swanson who is an attorney at
3 Belbaums & Albertson, and it was post designation, is what I
4 can remember, it would be some time maybe June of 1999. I
5 could be wrong in terms of the month, but I'm about 99
6 percent confident it was post designation when we were
7 contacted by Ms. Swanson who asked if Adams would be
8 interested.

9 THE COURT: And you got, the appraisal report was
10 done or --

11 MR. COLE: It was done after that, as I recall.

12 THE COURT: So June, July --

13 MR. COLE: That's my best guess.

14 THE COURT: That's fine, okay. I'm just looking
15 for a frame of reference here.

16 I'm sorry. I just wanted to be sure I was
17 understanding.

18 Go ahead.

19 BY MR. HUTTON:

20 Q Was that, do you know what a white knight
21 settlement is, Mr. Gilbert?

22 A No.

23 Q Well, a white knight settlement is a settlement in
24 which a third party buys out the interests of the applicants
25 in the proceeding for purposes of acquiring the license or

1 the permit itself.

2 Was the appraisal being discussed, being done for
3 purposes of a potential white knight settlement?

4 A Not from our point of view.

5 Q Was it presented by Telemundo's representative for
6 that purpose?

7 A There was never any settlement discussion, no.

8 Q Well if it wasn't for purposes of settlement, what
9 was the purpose of the appraisal from Telemundo's
10 perspective?

11 MR. COLE: Objection.

12 THE WITNESS: I don't know.

13 THE COURT: Wait a minute. Let the lawyers --

14 MR. COLE: There's no foundation for that
15 question. There's no way of knowing by Mr. Gilbert what was
16 going on in Telemundo's mind or what might have provoked it
17 to make a phone call.

18 THE COURT: Well, he can answer the question that
19 way.

20 THE WITNESS: I don't know.

21 THE COURT: I'm giving him leeway on Cross-
22 Examination and I'm trying to move it along.

23 MR. COLE: I'm sorry, Your Honor.

24 THE COURT: That's all right. You make your
25 objections.

1 (Pause)

2 THE COURT: Are you going into another area, Mr.
3 Hutton?

4 MR. HUTTON: No, I'm trying to finish up this
5 area.

6 THE COURT: Are you almost ready?

7 MR. HUTTON: Yes, I'd like to show the witness
8 pages 23 and 24 of his deposition for purposes of
9 impeachment.

10 THE COURT: 23 and 24. Mr. Gilbert, you have that
11 there, your deposition. Please turn to page 23. We'll take
12 a minute off the record so you can read the pages.

13 (Pause)

14 THE COURT: Back on the record.

15 BY MR. HUTTON:

16 Q Mr. Gilbert, starting at line 11 on page 23 I
17 asked you about an approach you had from a party that was
18 interested in disposing of your application and acquiring
19 the station. You indicated that this party, and I think you
20 were referring to Telemundo, were you not?

21 A Right.

22 Q That they wanted to talk to Parker and to Adams
23 about it. You then indicated it was a telephone call. On
24 page 24 you indicate that only you participated on the call
25 besides the Telemundo representative.

1 The question at nine is, "Where was it left at the
2 end of that phone call?"

3 Your answer was, "Nothing ever came of it. I told
4 him I wasn't interested, but I never got a second phone
5 call."

6 A Uh huh.

7 Q Was that testimony accurate?

8 A I believe so. I'd forgotten about it. Yes.

9 Q But it doesn't say anything about doing an
10 appraisal, or participating, paying for an appraisal?

11 A That was a different phone call.

12 Q Well in the next line I asked, "Do you recall any
13 other discussions with any party outside of Adams
14 Communications about a potential settlement of the case?"
15 Your answer was "None". Was that correct?

16 A Yes.

17 Q So it's your testimony -- How can you explain your
18 belief that that was a correct answer?

19 A It was a correct answer. Ann Swanson, I guess it
20 was, talked about getting an appraisal, so we did an
21 appraisal. That's all.

22 Q So it's your testimony that that had nothing to do
23 with a potential settlement?

24 A Not from my point of view it didn't.

25 THE COURT: Wait a minute. That's not a response

1 to the answer, I mean not from your point of view it didn't.

2 What knowledge did you have of a possible
3 settlement opportunity or a settlement proposal coming from
4 somebody other than Parker at that time? Any knowledge at
5 all that you had?

6 THE WITNESS: None.

7 THE COURT: Absolutely none whatsoever? Is that
8 your testimony?

9 THE WITNESS: That's my testimony.

10 THE COURT: All right, let me ask you this.
11 According to page 23 in your deposition you answered a
12 question in these words, you said, "They said they wanted to
13 talk to Parker and to us about it."

14 THE WITNESS: Right.

15 THE COURT: Who's the they?

16 THE WITNESS: I don't remember, Your Honor.

17 THE COURT: They certainly weren't the college
18 students.

19 THE WITNESS: They weren't the college -- It was,
20 as I recall it, it was a man who called me.

21 THE COURT: Do the best you can. You're getting
22 better at it now, come on.

23 THE WITNESS: It's all I can remember, Your Honor.

24 THE COURT: It was a man that called you. But
25 what is the they? They said. They said they wanted to --

1 THE WITNESS: That's the party, Your Honor.

2 THE COURT: And you have absolutely no
3 recollection of who they might be?

4 THE WITNESS: I didn't take it seriously at that
5 time. You know, a guy calls me on the phone says I want to
6 settle it. I didn't know if it was subterfuge for Parker or
7 what it was.

8 THE COURT: When was the approximate time of that
9 phone call?

10 THE WITNESS: Oh, boy.

11 THE COURT: Did he testify to that? The
12 approximate time of this phone conversation?

13 MR. HUTTON: Yes, on page 23 he indicates on lines
14 19 and 20 it was sometime in the last year or 18 months.

15 THE WITNESS: It was subsequent to the call from
16 Parker, I remember that.

17 THE COURT: Okay, that's a help.

18 So first Parker called you and you got, you
19 testified here that you didn't want anything to do with
20 talking to Parker about settlement.

21 THE WITNESS: Uh huh.

22 THE COURT: How long after that did you get this
23 other phone call?

24 THE WITNESS: Frankly, I don't remember when
25 Parker called me. As I say, this was --

1 THE COURT: But it was subsequent. You said it
2 was subsequent.

3 THE WITNESS: Right. Yes. Definitely.

4 THE COURT: So think in terms of time. How soon
5 after the Parker conversation did this one come up? This
6 conversation? The conversation about the they.

7 THE WITNESS: It was a number of months later,
8 Your Honor

9 THE COURT: It wasn't years later, but it was
10 months.

11 THE WITNESS: It could have been more than a year.
12 I just don't know when I talked to Parker about it. This
13 was a relatively recent communication. It's been going on
14 for years now, Your Honor. I brushed Parker off. I wasn't
15 really interested in talking with this fellow either. I
16 wasn't sure he wasn't a [stalking horse] for Parker.

17 THE COURT: Do you have a diary entry with the
18 name of this person?

19 THE WITNESS: No. I don't remember if he
20 identified who he was with or anything.

21 THE COURT: But you're sure you had the
22 conversation?

23 THE WITNESS: Yeah, I had a conversation. It
24 wasn't a matter of great consequence, Your Honor. We
25 weren't interested in settling.

1 THE COURT: That's not my question. I'm trying to
2 help you recall.

3 THE WITNESS: I appreciate that, Your Honor.

4 THE COURT: That's it. Go ahead, Mr. Hutton.

5 BY MR. HUTTON:

6 Q To get back to an earlier question, wasn't the
7 purpose of doing an appraisal with Telemundo to possibly
8 effectuate a settlement of the case?

9 A No.

10 Q Didn't Telemundo indicate that they wanted to do
11 the appraisal in connection with a potential white knight
12 settlement?

13 A They might have. That wasn't our purpose. We
14 just wanted to know what the station was worth and it was a
15 cheap way to find out.

16 Q If they indicated they wanted to do the appraisal
17 for purposes of a potential settlement, why did you answer
18 none on line 17 of page 24?

19 A I don't know that I'm referring to the Telemundo
20 conversation. That was with a woman.

21 Q The question was "Do you recall any other
22 discussions with any party outside of Adams Communications
23 about a potential settlement of the case."

24 A That's correct.

25 Q And your answer was "None".

1 A That's correct.

2 Q But isn't it -- Haven't you testified that
3 Telemundo did approach Adams about participating in an
4 appraisal for the case --

5 A Yes.

6 Q -- for purposes of potential white knight
7 settlement?

8 A No, because I -- I wasn't interested in talking
9 about settlement with Telemundo.

10 Q Again, I'm putting aside what you were interested
11 in and asking you what Telemundo stated as the purpose of
12 the appraisal.

13 A I told them I would do an appraisal to find out
14 what the station was worth. That's all I said to them.

15 THE COURT: I don't think you listened to his
16 question. Ask the question again.

17 BY MR. HUTTON:

18 Q The question is, didn't you testify that Telemundo
19 indicated that they wanted to do an appraisal for purposes
20 of a potential settlement of the case.

21 A Yes.

22 Q All right. So your testimony on line 17 of page
23 24 was not correct, was it?

24 A I don't think so, because from my point of view I
25 wasn't discussing settlement with them.

1 THE COURT: -- your question very carefully, Mr.
2 Hutton.

3 I don't think you're going to make much more
4 progress here.

5 MR. HUTTON: I'm prepared to move on, Your Honor.

6 THE COURT: Thank you.

7 BY MR. HUTTON:

8 Q Now I want to ask some questions relating to the
9 entire period of time both before and after the application
10 was filed.

11 Has any representative of Adams ever had any
12 discussions with any programmer about providing programming
13 to the station in the event your application is successful?

14 A No.

15 Q Have you ever had any discussions with anyone else
16 in Adams about the size of the staff of the station in the
17 event your application is successful?

18 A Yes.

19 Q Did those discussions occur before or after your
20 deposition?

21 A Before and after probably.

22 Q I'd like you to refer to pages 19, well, I'll just
23 read this into the record. Page 19 of your deposition.

24 "Did you have any discussions about the size of
25 the staff?"

1 Page 20, line one. Answer, "No. We talked about
2 money but we never talked about the size of the staff."

3 A Maybe it's the same answer. We talked about
4 budgets, what it would cost us to run the station. Haag was
5 always talking about money, what's it going to cost for the
6 station.

7 Q But I just asked you if you'd ever have any
8 discussions, and you gave me a different answer than what is
9 stated in your deposition. Which is correct?

10 A We talked generally about, we knew what 44 was
11 going to cost us, the size it would be to run a station in
12 Chicago. We've talked -- We haven't talked about how many
13 billets there would be in Reading. In Monroe as we got
14 close to winning the case we were preparing staffing
15 operations and so on and we knew what we were going to do.
16 So we talked about how does it compare, what's involved
17 here.

18 Q So you're saying that your deposition testimony is
19 correct and that your testimony today is incorrect?

20 A They're both correct. It's just what you're
21 talking about. Did we ever talk about if we needed 14
22 people, the answer is no.

23 Q I asked if you'd ever had any discussions about
24 the size of the staff for the station in the event your
25 application was successful.

1 A Once again, it has to do with budget, as I say
2 there.

3 Q Has Adams ever consulted with any third party
4 about how to staff the proposed station?

5 A No.

6 Q Has Adams ever consulted with any third party
7 about how to program the proposed station?

8 A No.

9 Q Has Adams ever consulted with any third party
10 about the financial viability of the proposed station?

11 A No.

12 Q Is it correct that Adams' budget for the
13 construction and initial operation of the station is
14 approximately \$7.5 million?

15 A Please repeat the question.

16 If the answer was the budget, the answer was no.
17 We changed it later on. Increased it.

18 Q Your initial budget was \$4.5 million, correct?

19 A Yes.

20 Q That was later revised to \$7 million, correct?

21 A Yes.

22 Q At the time Adams filed this application, did
23 Adams have a written business plan?

24 A No.

25 THE COURT: Excuse me, just for my clarification.

1 Is that a budget for, estimated budget for one year's
2 operation or --

3 MR. HUTTON: No, they had a budget, the question
4 was whether they had a business plan.

5 THE COURT: What did the budget cover? Operations
6 for a year, or what? Salaries and stuff? What would it
7 cover?

8 MR. HUTTON: The budget was supposed to cover the
9 cost of initial construction and the cost of operations for
10 three months.

11 THE COURT: Okay.

12 BY MR. HUTTON:

13 Q Did you know before Adams filed this application
14 that Reading Broadcasting, Inc. had recently been in
15 bankruptcy?

16 A Yes.

17 Q And to the best of your knowledge is any principal
18 of Adams actively involved in any broadcast public service
19 activity or organization such as PBS?

20 A I give money to PBS, significant sums, and
21 probably Steinfeld does too, and Haag may, and Umans may. I
22 don't know.

23 Q Are you --

24 A We also supported public interest law firms in the
25 media.

1 THE COURT: You mean public interest law firms
2 that specialize in media issues?

3 THE WITNESS: Yeah.

4 BY MR. HUTTON:

5 Q Is that through financial contributions?

6 A Yes.

7 Q Apart from those financial contributions, has any
8 principal of Adams been actively involved in any broadcast
9 public service activity or organization?

10 A I don't think so. In Chicago that organization is
11 controlled by Mr. Irving Harris. He personally solicits me
12 for money but has never offered me a board membership.

13 THE COURT: Is this the Mr. Harris, the one you
14 were involved with in the Monroe --

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: You were not involved with him, you
17 were involved against him.

18 THE WITNESS: Correct.

19 MR. HUTTON: I have nothing further, Your Honor.

20 THE COURT: I just have a few things that I think
21 I probably ought to cover before --

22 After you were finished with Monroe, the
23 settlement, just to put it in a time frame, the settlement
24 order was approved in December of 1992.

25 THE WITNESS: Right.

1 THE COURT: What were the circumstances under
2 which your group decided to undertake another challenge? If
3 I'm framing it the right way. Something happened between
4 then and when you started looking around at other stations.

5 THE WITNESS: We knew about home shopping network,
6 we may have even been talking about that before, I don't
7 remember. The fact that home shopping network wasn't
8 serving the public interest, either. I forget, it was
9 another channel that was pulled out of, what I would call
10 the mainstream of communications broadcasting. You didn't
11 have to pay for it. There was no deceptive, public service,
12 no political discourse is the way I would frame it that was
13 appearing on home shopping network.

14 THE COURT: With Video 44 it was the pornography
15 type broadcasting that got you interested in that.

16 THE WITNESS: It was first the fee. Then Darby
17 and Haag both were banging away. It was the fact that the
18 station was -- That diversity of opinion was not as much, it
19 wasn't achievable anymore because now you had to pay for a
20 station.

21 THE COURT: At some point pornography crept into
22 it.

23 THE WITNESS: Once you got into the station. Once
24 you started talking about it with respect to pornography, it
25 came too.

1 THE COURT: At the time -- Did somebody turn on
2 the television or pay the money to go see what was on it?
3 What was on Video 44?

4 THE WITNESS: That's when it happened, Your Honor.
5 We didn't --

6 THE COURT: You didn't have any idea --

7 THE WITNESS: We didn't --

8 THE COURT: You knew it was being charged, but you
9 didn't have any idea what the programming was.

10 THE WITNESS: Didn't know what the programming
11 was.

12 THE COURT: So it could have been -- It didn't
13 make any difference to you what it was.

14 THE WITNESS: Right. Clearly, Your Honor, Darby
15 and Haag were both banging away at the same time and
16 Fickinger, to a lesser extent, that here's a channel you
17 have to pay for and it's not right that people have to pay
18 for something that belongs to the government, and they get,
19 it's not being operated in the public service interest.

20 THE COURT: So --

21 THE WITNESS: Then we --

22 THE COURT: At the time that you were focused on
23 that was home shopping around? Was home shopping --

24 THE WITNESS: Oh, no, Your Honor.

25 THE COURT: Somehow or other that came up --

1 THE WITNESS: I just don't remember when home
2 shopping network came into existence or anything else.

3 THE COURT: Anyway, it was around 1992 when you
4 were settling up in Monroe and Video 44, there was this
5 concern about home shopping that was going around --

6 THE WITNESS: Yeah, yeah.

7 THE COURT: And then as time went on you started
8 to formulate more and more and more in the direction.

9 THE WITNESS: Yeah.

10 THE COURT: I guess my question is why is the
11 direction, on Video 44 the interest of the group was very
12 much concerned about what was going on in and around
13 Chicago. But why didn't the group focus on something in and
14 around Chicago with home shopping?

15 THE WITNESS: We would have if the license renewal
16 didn't come up, we would have gone to the first one the
17 license renewal came up. The first one was Boston.

18 THE COURT: Why not wait until the one came up in
19 Chicago?

20 THE WITNESS: I don't remember how many years
21 along it was, Your Honor. I just don't know. We had the
22 whole sequence of --

23 THE COURT: Was there any -- I'm not sure, I don't
24 really feel qualified to ask this question, but I'm going to
25 try anyway. Was there any consideration given, you have a

1 very interesting group of business people there.

2 THE WITNESS: Yeah.

3 THE COURT: Formulate some kind of syndicate, and
4 then they can offer for a sum of money to get an assignment
5 of a channel on which the shopping was being, the home
6 shopping was being broadcast. Would you be able to then
7 change the name to something that would be more cerebral
8 or --

9 THE WITNESS: That wouldn't have achieved the
10 result we were trying to achieve. We'd been successful in
11 Monroe, in first knocking off pay TV. Equally or more
12 important, as it came, we stopped pornography in the United
13 States. I'm not sure about Reading, Pennsylvania, but among
14 sophisticated broadcasters, it stopped.

15 We had people calling us from all over the United
16 States We really struck what I would call a positive cord.
17 The Catholic region of DCB was on our side, all kinds of
18 other people were on our side, so we knew everybody who was
19 broadcasting pornography. In fact people were sending us
20 tapes, which we really didn't need.

21 So we, when we won the case it stopped. People
22 just stopped, how come they didn't get the word here, I'm
23 not sure when they were broadcasting pornography in Reading,
24 but it stopped in the United States.

25 Also we were told by people who were sophisticated

1 broadcasters that we had raised the level of public service
2 via number of hours per day as another result of the case.
3 The case was highly successful from our point of view.

4 THE COURT: But that all tied in with your
5 connection to Chicago.

6 THE WITNESS: No, it was --

7 THE COURT: It makes sense.

8 THE WITNESS: -- in Chicago, Your Honor.

9 THE COURT: Chicago just happened to be handy? Is
10 that what --

11 THE WITNESS: There was pornography across the
12 country, Your Honor.

13 THE COURT: You're telling me that, too many
14 things at one time.

15 First, you're telling me that the issue of using
16 the public air waves and charging a fee was what prompted
17 the group to move.

18 THE WITNESS: That's correct, Your Honor.

19 THE COURT: And in the context of doing that you
20 found out, to your surprise, that the pay, that the
21 programming for which payment was required was pornographic
22 material.

23 THE WITNESS: Not only, but also.

24 THE COURT: Not only, but also.

25 THE WITNESS: Yes.

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1 THE COURT: So you would have went after the Video
2 44 just on the pay issue.

3 THE WITNESS: We did. We went after it just on
4 the pay issue.

5 THE COURT: The pornography issue really is just a
6 plus in --

7 THE WITNESS: No, it wasn't -- It became important
8 in terms of what we were doing, but it's not either/or. It
9 was both.

10 THE COURT: But you didn't start your venture
11 because of pornography. You started your venture because of
12 the issue of pay TV.

13 THE WITNESS: Absolutely. Darby was talking about
14 it, Haag was talking about it. I don't think Darby, I never
15 talked to Darby about --

16 THE COURT: I didn't ask you about what you talked
17 to -- I didn't ask you about that.

18 And I started down this line with you about why
19 you didn't want to take some other way of moving home
20 shopping off a particular channel in Chicago and I'm not
21 sure where you took me on that.

22 THE WITNESS: By doing it, Your Honor, buying
23 Video 44, nobody would have cared, nothing would have
24 happened, pornography and --

25 THE COURT: No, no, no, no. Listen to my

1 question. Forget about 44.

2 You left 44 in '92. The business plan, you were
3 concerned about home shopping. Home shopping was bothering
4 you. Your group.

5 THE WITNESS: Right.

6 THE COURT: I'm asking you was there an option or
7 could an option have been considered about buying one of
8 those stations and taking home shopping off and turning it
9 around. And I don't know what you answered to that, but you
10 didn't answer my question. You said something about that
11 wouldn't work.

12 THE WITNESS: What happens in these cases is, the
13 problem is how to get the FCC to make a statement and do
14 something so you would change the nature of broadcasting.
15 If we buy -- We believe home shopping network --

16 THE COURT: Okay.

17 THE WITNESS: Can I answer it differently?

18 THE COURT: Yes.

19 THE WITNESS: We believe Home Shopping Network is
20 not --

21 THE COURT: Wait just a second. With that answer,
22 you know, with that answer then what you're suggesting to me
23 is that first you're saying a transfer or a signing of a
24 Chicago station which was specializing in home shopping
25 would not have accomplished what you want to accomplish

1 because that would not have involved the FCC and making some
2 sort of a public interest statement as they were required to
3 do in Video 44.

4 THE WITNESS: Right.

5 THE COURT: Okay. Just hold onto that thought for
6 a minute.

7 What, if that was your public interest focus, then
8 what prompted you to go to Reading, Pennsylvania with this
9 particular station WTVE with that purpose in mind?

10 THE WITNESS: Well we went to Boston actually,
11 Your Honor.

12 THE COURT: I know you did. I'm not going to go
13 through that. I know you went to Boston.

14 THE WITNESS: This was the first one that was
15 available where we could file a challenge.

16 THE COURT: Then what -- What --

17 THE WITNESS: This isn't a great place to be,
18 Reading. It's hard to get to, all kinds of things.

19 THE COURT: Maybe the people of Reading think it's
20 great.

21 THE WITNESS: It's a nice town, but it's a hard
22 place to get to in terms of getting there and everything.

23 THE COURT: But you're saying that this would be a
24 vehicle for your group to get the Commission to take a
25 position with respect to home shopping?

1 THE WITNESS: I think if this case is won, Your
2 Honor, the message will be -- The question really is, it's
3 sort of like a philosophical question. Can you run a Home
4 Shopping Network station and simultaneously have enough
5 political discourse and public service announcements, etc.,
6 and still be viable as a home shopping station? I don't
7 know the precise economics, but given the fact that
8 everybody operates differently, I suspect you can't. We
9 believe you can't.

10 If we win this case, and you have to have a
11 reasonable amount of public service broadcasting, Home
12 Shopping Network isn't going to work.

13 THE COURT: In other words your theory is that
14 it's kind of a combination of political
15 philosophy/economics. By the very nature of running a home
16 shopping programming business, there's not going to be
17 enough room, there's not enough slippage to let you bring in
18 meaningful public service broadcasting.

19 THE WITNESS: Right.

20 THE COURT: Under that theory it wouldn't make any
21 difference where the home shopping was, whether it was in
22 Phoenix, Arizona; or Brownsville, Texas; or Reading --

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: -- or Westchester, New York. It
25 wouldn't make any difference.

1 THE WITNESS: There's a very --

2 THE COURT: According to your theory.

3 THE WITNESS: The simple answer is yes. And
4 Boston and Reading are two very different communities in
5 demographics and everything else.

6 THE COURT: But based on the way I understand what
7 you said your theory is --

8 THE WITNESS: Absolutely correct, Your Honor.

9 THE COURT: It's not going to make any difference
10 where the home shopping is being broadcast, it's by virtue
11 of the nature of the animal, it's not going to allow enough
12 public service broadcasting to be --

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: -- to meet the standard that you want
15 to see -- As you see the standard.

16 The question I then have is, who was the person in
17 charge of your group, if there was, or what outside person
18 outside your group, got, went up Harriscope after 1992 and
19 started going around the country to see what stations were
20 available to -- Who was --

21 THE WITNESS: Who found out what stations were
22 available?

23 THE COURT: Yeah. Who made that --

24 THE WITNESS: We asked our legal counsel to find
25 out for us.

1 THE COURT: And that was the same counsel that was
2 representing you in Monroe.

3 THE WITNESS: Absolutely, Your Honor.

4 THE COURT: So they're the ones that came to you
5 with the Reading as one of the targets.

6 THE WITNESS: They showed us that there were X
7 Home Shopping Network stations in the United States --

8 THE COURT: And when their expiration date was.

9 THE WITNESS: -- and we asked them to give us
10 expiration dates.

11 THE COURT: How many did you find in the first
12 cut?

13 THE WITNESS: Found them all?

14 THE COURT: How many? Roughly.

15 THE WITNESS: There were 15 Silver King, I don't
16 remember how many there were.

17 THE COURT: More than 10?

18 THE WITNESS: Oh, yes, sir.

19 THE COURT: And less than 20?

20 THE WITNESS: I wouldn't say that.

21 THE COURT: There might have been more than 20.

22 THE WITNESS: Yes, sir.

23 THE COURT: So Boston looked good and so you
24 decided --

25 THE WITNESS: Everybody looked good. Any, none of

1 us had ever been and seen a Home Shopping Network station
2 that we believed met the standards. That doesn't mean we'd
3 done an intensive survey, but just, Steinfeld traveled
4 immensely in business at that time. Umans traveled
5 significantly in business and so on. Haag traveled somewhat
6 in business. I travel once day a month, surely, and none of
7 us had ever watched a television station with Home Shopping
8 Network where we saw very much of public service.

9 THE COURT: All right. We've established, I think
10 for my purposes here anyway, we've established -- so
11 location didn't make any difference. I'm trying to focus,
12 what other factors in Reading? Reading had a, its station
13 was coming up for renewal at a date certain that was
14 convenient to you, your group.

15 What other factors were there about Reading as
16 compared to any other place that you --

17 THE WITNESS: Nothing necessarily unique about
18 Reading.

19 THE COURT: So why was that selected over --

20 THE WITNESS: It was the next one that came up.
21 We wanted to find a target and go after it. The first one
22 that came up was Boston. We put a lot of effort and money -
23 -

24 THE COURT: That had the earliest renewal --

25 THE WITNESS: The earliest renewal.

1 THE COURT: And the next newest was Reading.

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: So for some reason or other if you
4 were having a problem with a station site or a tower site in
5 Reading, you'd move on to the next one.

6 THE WITNESS: We would have waited another year or
7 whatever the period was and gone -- We put in an awful lot
8 of money in Boston, engineering studies, which --

9 THE COURT: Expensive.

10 THE WITNESS: Yeah, it was very expensive. And
11 Boston turned out not -- The programming was better than the
12 programming here but it still didn't meet our standards.

13 THE COURT: All right. Let me move to something
14 else.

15 You said that the agreement, the agreement was
16 decided in the Commission's order. Where am I, back to
17 Reading Exhibit 22. It indicates that Spanish programming
18 was obviously very important to you.

19 THE WITNESS: Yeah.

20 THE COURT: To your group. And now you're moving
21 on to Reading, and the route that you've just outlined here.
22 You want to go after Reading because you want the Commission
23 to make this statement about home shopping. I'm
24 paraphrasing what you're saying.

25 THE WITNESS: That's correct.

1 THE COURT: How does Spanish programming fit into
2 Reading, in the Adams context? Any particular Spanish
3 programming --

4 THE WITNESS: We still have an interest --
5 Fickinger has a 25 year interest in Hispanic programming.

6 THE COURT: What's his interest in it?

7 THE WITNESS: With regard to owner.

8 MR. COLE: Your Honor, if I might assist the
9 witness or direct the Court's attention to Adams Exhibit 1 -
10 -

11 THE COURT: That's where it is. I knew I'd seen
12 it.

13 MR. COLE: Which lists the percentage of
14 ownership.

15 THE WITNESS: 11.6 percent, Your Honor.

16 THE COURT: 11.6. That's one point--

17 THE WITNESS: Your Honor, I have limited --

18 THE COURT: Okay. All right.

19 But I guess for purposes of this discussion
20 between you and me, my next question would be well so what?
21 I mean that's Fickinger's interest, and it's a bonafide
22 respectable interest, but what does that mean to the rest of
23 the group? Your interest is in establishing a policy issue
24 coming out of the Commission. What does Spanish programming
25 have to do with you, with the rest of you?

1 THE WITNESS: Well, we put a lot of effort into it
2 in Monroe so we know a lot about it. Are people interested
3 in Spanish programming? Haag is. I'm somewhat interested
4 in it. It's a question of who drives what in terms of the
5 situation.

6 Fickinger is a strong man, I mean obviously you
7 don't get to be President of --

8 THE COURT: Well, you have a very, obviously a
9 very well qualified group in many, many fields with many
10 interests, and I'm sure there is an independent view
11 throughout the group. So if Mr. Fickinger has a keen
12 interest in Spanish programming, I'm simply trying to say
13 how does that transfer over to the rest of the group?

14 THE WITNESS: Wayne's a respected member of the
15 group. If Wayne feels that we should spend a lot of time
16 and try to do Hispanic programming, I'm going to give a lot
17 of deference, as is Mr. Haag, etc., to Wayne.

18 THE COURT: Suppose somebody else had a different
19 interest?

20 THE WITNESS: Nobody else does. The fact of the
21 matter is, that the strongest interest in any direction is
22 Wayne Fickinger's.

23 THE COURT: So he wants that Spanish programming
24 and he wants it in Reading or he wants it wherever -- He
25 wants it in Boston, he wants it wherever you picked up a